IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,	:	
Plaintiff	:	
v.	:	CIVIL ACTION NO. 05-82 KAJ
CHARLES E. EVERETT,	:	
Defendant	:	

MOTION TO COMPEL DEPOSITION OF JUDGMENT DEBTOR

Pursuant to 28 U.S.C. § 3015 and Rule 37 of the Federal Rules of Civil Procedure, plaintiff, the United States of America, by its undersigned counsel, hereby moves the Court for an Order compelling **Charles E. Everett** to appear for the purpose of an oral deposition in aid of execution and avers the following in support thereof:

1. On August 24, 2005, judgment was entered in favor of the United States and against the defendant, **Charles E. Everett,** in the amount of $12,078.48 plus interest at the legal rate of 3.370%. No appeal was taken from the judgment. A true and correct copy of the judgment is attached hereto as Exhibit "A".

2. The debt remains unsatisfied.

3. In accordance with Rules 69(a), 30 and 34 of the Federal Rules of Civil Procedure, plaintiff served a subpoena duces tecum on the defendant requiring him to appear at the office of the United States Attorney on June 20, 2006, and to produce certain financial records for inspection and/or copying. True and correct copies of the subpoena and Proof of Service are attached hereto as Exhibits "B" and "C" respectively.

4. Defendant failed to appear for his oral deposition as subpoenaed.

5. Defendant has offered no legal or other excuse for his failure to attend the deposition or to produce the required documents. Imposition of sanctions under Rule 37(a)(4) is therefore warranted.

6. Pursuant to 28 U.S.C. § 3015 and Federal Rules of Civil Procedures 30, 34 and 69(a) as applicable to these proceedings, the plaintiff, as judgment creditor, is entitled to discover, through deposition or otherwise, the assets of the defendant available to satisfy the final judgment in the case.

WHEREFORE, plaintiff requests the Court to Order **Charles E. Everett** to appear for oral deposition at a date and time to be set by plaintiff to comply with the Subpoena duces tecum previously served upon him and to pay plaintiff its reasonable costs of filing this motion under Rule 37(a)(4) of the Federal Rules of Civil Procedure.

Respectfully submitted,

COLM F. CONNOLLY
United States Attorney

Patricia C. Hannigan
Assistant United States Attorney
Delaware Bar I.D. No. 2145
The Nemours Building
1007 Orange Street, Suite 700
P. O. Box 2046
Wilmington, DE 19899-2046
(302) 573-6277
Patricia.Hannigan@usdoj.gov

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA, :

Plaintiff :

v. : CIVIL ACTION NO. 05-82 KAJ

CHARLES E. EVERETT, :

Defendant :

ORDER

AND NOW, this day of , 2006, upon consideration of the plaintiff's Motion to Compel Deposition of Judgment Debtor and good cause appearing therein, and **Charles E. Everett** having failed to attend oral deposition, it is hereby **ORDERED** in accordance with Rule 37(a) of the Federal Rules of Civil Procedure, that the defendant shall attend oral deposition at a date and time to be determined by plaintiff and bring him with those documents listed in the subpoena duces tecum previously served upon him.

IT IS FURTHER ORDERED that **Charles E. Everett,** shall pay to the plaintiff $_________ as reasonable costs of this motion, pursuant to Rule 37(a)(4) of the Federal Rules of Civil Procedure.

____

Honorable Kent A. Jordan
United States District Court Judge

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA, :

Plaintiff, :

v. : Civil Action No. 05-0082-KAJ

CHARLES E. EVERETT, :

Defendant. :

DEFAULT AND DEFAULT JUDGMENT

AND NOW, TO WIT, THIS 24th DAY OF August, 2005, it appearing from the Declaration of Cynthia Kemske that the above named defendant has not answered or otherwise moved with respect to the Complaint, and the plaintiff having requested the entry of a default and a default judgment, it is:

ORDERED, in accordance with Rules 55(a) and 55(b) (2), Fed.R.Civ.P., that a default be and it hereby is entered against the defendant, and,

It further appearing from the complaint that the amount due the plaintiff from the defendant is the sum of $12,078.48 as of October 13, 2004, it is:

GOVERNMENT EXHIBIT A

CARDELS 800-783-0399

ORDERED that Judgment be entered in favor of the Plaintiff and against the defendant in the amount of $12,078.48 plus interest from October 13, 2004 to the date of Judgment, at the rate of 3.37% per annum, computed daily and compounded annually until paid in full, plus post-judgment interest calculated at the legal rate, plus pre-judgment costs and allowable costs to be awarded by the Clerk pursuant to Local Rule 54.1.

KENT A. JORDAN
Judge, United States District Court

U.S. Department of Justice

United States Attorney

District of Delaware

Renee A. Austin
Direct Dial: 302-573-6277x119
Facsimile: 302-573-6643

1007 Orange Street
Suite 700
Wilmington, Delaware 19899-2046
(302) 573-6277

May 17, 2006

Charles E. Everett
413 Jaymar Boulevard
Newark, DE 19702

Re: United States v. Charles E. Everett
Civil Action No. 05-082

Dear Mr. Everett:

Enclosed, please find a Subpoena requiring you to appear at the Office of the U.S. Attorney, 1007 Orange Street, Suite 700, Wilmington, Delaware, on **Tuesday, June 20, 2006, at 10:00 a.m.**. As stated on the subpoena, you are required to bring all documents requested on the enclosed list.

If you have any questions, please contact me at the number listed above.

Very truly yours,

COLM F. CONNOLLY
United States Attorney

By: [signature]
Reneé A. Austin
Paralegal Specialist

Enclosures

GOVERNMENT EXHIBIT B

CARDELS 800-783-0399

AO88 (Rev. 1/94) Subpoena in a Civil Case

Issued by the

UNITED STATES DISTRICT COURT

DISTRICT OF DELAWARE

UNITED STATES OF AMERICA
Plaintiff
V.

CHARLES E. EVERETT
Defendant

SUBPOENA IN A CIVIL CASE

Case Number: 05-082

TO: CHARLES E. EVERETT
413 Jaymar Boulevard
Newark, DE 19702

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

✓ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
United States Attorney's Office, 1007 Orange Street, Suite 700, Wilmington, Delaware 19899	Tues, June 20, 2006, 10:00a.m.

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

SEE ATTACHED LIST.

PLACE	DATE AND TIME

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
[signature]	5/17/06

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
Patricia C. Hannigan, Esquire - 302-573-6277x156
1007 Orange Street, Suite 700, Wilmington, DE 19899

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

[1] If action is pending in district other than district of issuance, state district under case number.

DOCUMENT LIST

1. Financial Statement of Debtor.

2. Earnings statements - last three (3) months.

3. Federal and States Income Tax Returns for the past three (3) years.

4. Business books and records for the present year and past calendar year which reflect assets, liabilities, gross receipts and expenses for any sole proprietorship, partner-ship or corporation in which you own any interest.

5. Current bank statements from all banks, or other financial institutions, where any sole proprietorship, partnership or corporation in which you own any interest, has an account of any kind.

6. Current bank statements from all banks, or other institutions, where you have an account of any kind.

7. All trust agreements in which you are named trustor, trustee or beneficiary.

8. All deeds, leases, contracts, and other documents representing any ownership interest you have in any real property, and all deeds of trust, mortgages of other documents evidencing encumbrances of any kind on your real property.

9. All stocks, bonds or other securities of any class which you may own, including options to purchase any securities.

10. Titles to all motor vehicles you own.

11. All Life Insurance policies in which you are either insured or the beneficiary.

12. All promissory notes held by you and all other documents evidencing any money owed to you either now or in the future.

13. All financial statements furnished by you within the past five (5) years.

14. All deeds, bills of sale or other documents prepared in connection with any transfer made by you, either by gifts, sale or otherwise within the last five (5) years.

15. Copies of credit card and utility bills.

16. All documents evidencing any interest you have in any pension plan, retirement fund or profit sharing plan.

17. Rent receipts, if renting property.

PROOF OF SERVICE

	DATE	PLACE
SERVED	5/18/06	413 JAYMAR BLVD. NEWARK, DE

SERVED ON (PRINT NAME)	MANNER OF SERVICE
CHARLES EVERETT	ACCEPTED BY NATASHA EVERETT

SERVED BY (PRINT NAME)	TITLE
DENORRIS BRITT	PROCESS SERVER

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on 5/18/06
DATE

SIGNATURE OF SERVER

BRANDYWINE PROCESS SERVERS, LTD.
P.O. BOX 1360
WILMINGTON, DE 19899-1360
302-475-2600

Rule 45, Federal Rules of Civil Procedure, Parts C & D-

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the partyor attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need notappearin person atthe place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materialsorof the premises. If objection is made, the partyserving the subpoenashall not be entitled to inspectand copyrnaterials; or inspectthe premises except pursuaritto an order of the court by which the subpoena was issued. If objection has been made, the parlyserving the subpoena may, upon notice to the person commanded to produce, move at any time for an orderto compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court bywhich asubpoenawas issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(h) requires a person who is not a party or an officer ofa partyto travel to a place more than 1 00 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matterand no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 1 00 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows asubstantial need forthe testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are keptin the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged orsubjectto protection astrial preparation materials, the claim shall be made expresslyand shall be supported bya description of the natureof the documents, communications, orthings not produced that is sufficienttoenable the demanding party to contest the claim.

GOVERNMENT EXHIBIT
C
CARDELS 800-783-0399

CERTIFICATE OF SERVICE

I hereby certify that two copies of the foregoing Motion to Compel of Judgment Debtor and proposed Order were served on the defendant, **Charles E. Everett,** by depositing same in the United States mail, postage prepaid, June 29, 2006, addressed to:

Charles E. Everett
413 Jaymar Boulevard
Newark, DE 19702

COLM F. CONNOLLY
United States Attorney

Patricia C. Hannigan
Assistant United States Attorney
Delaware Bar I.D. No. 2145
The Nemours Building
1007 Orange Street, Suite 700
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